

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

AMERICAN AIRLINES, INC.,

Plaintiff,

v.

SKIPLAGGED, INC.,

Defendant.

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Civil Action No. 4:23-cv-00860-P

**PLAINTIFF AMERICAN AIRLINES, INC.’S OBJECTIONS TO
DEFENDANT SKIPLAGGED, INC.’S PRETRIAL DISCLOSURES**

Pursuant to the Court’s Scheduling Order [Dkt. No. 20 at 4], Rule 26(a)(3)(A)–(B) of the Federal Rules of Civil Procedure, and Rule 26.2 of the Local Civil Rules for the Northern District of Texas, Plaintiff American Airlines, Inc. (“American”) makes the following objections to Defendant Skiplagged, Inc.’s (“Skiplagged”) Rule 26(a)(3) Pretrial Disclosures [Dkt. No. 207] and Supplemental Rule 26(a)(3) Pretrial Disclosures [Dkt. No. 240] (collectively referred to herein as Skiplagged’s “Pretrial Disclosures”).

American’s objections to the use of any witnesses (except for expert objections) identified by Skiplagged under Rule FRCP 26(a)(3)(A)(i)

American has no objections to Skiplagged’s witnesses listed in its Pretrial Disclosures. [*See* Dkt. No. 207-1 at 2–3; Dkt. No. 240-1 at 1–2].

However, American reserves the right to cross-examine Skiplagged’s witnesses and offer additional testimony in rebuttal or as impeachment to any such witnesses. American further reserves the right to make any objections and counter-designations to all witnesses designated by Skiplagged in any further supplementations to its witness list. Additionally, American reserves the right to raise objections based on the progress of the case at trial.

American's objections to the use under FRCP 32(a) of a deposition designated by Skiplagged under FRCP 26(a)(3)(A)(ii) and American's counter-designations

In the event Marcial Lapp testifies at trial, American objects to any of his deposition testimony being played or submitted at trial. In the event Marcial Lapp does not testify at trial, American makes the following objections and counter-designations to Skiplagged's designated portions of Marcial Lapp's deposition [*see* Dkt. No. 207-2 at 2]:

Skiplagged's Deposition Designation	American's Objection(s)	American's Counter-Designation(s)
8:21 – 24	None	
9:9 – 13	None	
9:22 – 13:7	None	
25:8 – 15	None	
26:2 – 4	None	
26:13 – 17	None	26:18–26:22
26:23 – 27:15	None	30:15–31:21
32:12 – 23	None	32:24–33:5; 33:8–33:13; 37:20–37:24; 39:10–40:2
40:10 – 41:8	None	41:9–41:17
47:5 – 22	None	44:8; 45:21–46:13; 49:4– 50:1; 50:2–50:3; 50:8–51:9; 51:21–52:11; 52:14–52:15
59:9 – 61:3	None	62:22–63:15; 85:15–85:21; 86:15–87:5; 89:24; 91:4– 91:7; 91:15–94:14; 95:3– 95:13

American makes the following objections and counter-designations to Skiplagged's designated portions of the Varvara Reva as the Rule 30(b)(6) Corporate Representative of Kiwi.com's deposition [*see* Dkt. No. 207-2 at 2]:

Skiplagged's Deposition Designation	American's Objection(s)	American's Counter-Designation(s)
7:24 – 8:7	None	
25:8 – 10	None	
33:22 – 34:4	None	
34:8 – 16	None	
35:2 – 8	None	
35:19 – 22	None	
36:23 – 37:17	None	
51:2 – 9	FRE 401 (Relevance)	
51:13 – 52:11	FRE 401 (Relevance)	
55:2 – 24	FRE 401 (Relevance)	55:25–56:6
57:17 – 22	None	

59:15 – 24	None	
61:18 – 22	None	
63:20 – 64:18	FRE 401 (Relevance)	
67:3 – 16	FRE 401 (Relevance)	66:5–66:11; 66:16–67:2
67:22 – 68:6	None	72:9–16; 73:9–74:3; 75:20–76:7
81:16 – 17	None	
82:2 – 5	FRE 401 (Relevance)	83:11–84:17
88:4 – 18	FRE 401 (Relevance)	
88:24 – 89:12	FRE 401 (Relevance)	88:19–88:23
131:16 – 132:4	None	
138:15 – 140:7	FRE 801/802 (Hearsay)	141:13–142:3
169:2 – 170:9	None	
170:16 – 171:18	None	171:24–172:11; 172:25– 173:7; 176:17–176:19
178:5 – 179:15	FRE 401 (Relevance)	118:19–119:8; 179:16–180:2
205:24 – 206:17	None	206:18 – 207:6; 218:3 – 218:12

In the event Marcial Lapp testifies at trial, American objects to any of his deposition testimony being played or submitted at trial. In the event Marcial Lapp does not testify at trial, American makes the following objections and counter-designations to Skiplagged’s designated portions of Marcial Lapp as the Rule 30(b)(6) Corporate Representative of American’s deposition [see Dkt. No. 207-2 at 2–3]:

Skiplagged’s Deposition Designation	American’s Objection(s)	American’s Counter-Designation(s)
6:10 – 8:3	None	
8:15 – 19	None	
10:10 – 11:2	None	
12:12 – 17	None	
27:13 – 29:7	None	
36:25 – 37:16	None	33:11–34:14; 34:23–36:4; 36:13–36:24; 37:17–40:10
40:11 – 21	None	
40:23 – 41:15	FRE 403 (Confusion— argumentative; calls for speculation)	
42:6 – 43:8	None	43:9–45:19; 48:14–48:24; 49:11–51:8; 51:18–52:5
52:7 – 18	None	
54:4 – 23	None	54:24–55:10
56:2 – 4	None	
56:12 – 15	FRE 403 (Cumulative)	

57:6 – 22	None	57:23–58:5
58:12 – 59:6	None	
59:24 – 60:12	None	60:14–60:16
60:17 – 24	None	61:5–61:17; 61:23–62:5
62:17 – 20	None	
63:22 – 64:16	None	64:17–65:18
65:19 – 21	FRE 403 (Confusion— assumes facts not in evidence)	
65:23 – 66:10	FRE 403 (Confusion— assumes facts not in evidence)	66:11–67:3; 67:16–68:9
74:19 – 25	None	75:1–75:16
75:17 – 77:13	None	77:14–77:22
77:23 – 79:4	FRE 401 (Relevance) (as to Skyscanner)	
82:19 – 84:4	FRE 401 (Relevance)	84:5–84:11; 84:22; 85:11; 86:22–87:16; 87:20–87:25; 88:4–89:24; 91:25–92:8; 94:12–94:22
105:2 – 5	FRE 401 (Relevance)	
109:6 – 13	FRE 401 (Relevance)	109:14–110:3
111:4 – 11	FRE 401 (Relevance)	
122:7 – 22	FRE 401 (Relevance)	123:24–124:19 (subject to relevance objection)
124:20 – 21	None	124:24–131:7
134:17–135:15	FRE 401 (Relevance)	135:16–136:4 (subject to relevance objection); 138:14– 139:20; 141:13–142:1
151:7 – 25	FRE 401 (Relevance)	152:1–152:10
152:11 – 18	FRE 401 (Relevance); FRE 403 (Confusion—question but not answer designated)	167:16–169:17
169:18 – 171:4	None	171:5–171:16
171:21 – 172:1	None	172:2–172:21
173:15 – 22	FRE 401 (Relevance)	174:1–174:6
174:7 – 10	None	174:11–174:13
175:5 – 18	None	176:9–178:18; 179:13–181:21
184:13 – 21	None	
185:2 – 187:2	FRE 602 (No personal knowledge of email exhibit)	
187:9 – 12	FRE 602 (No personal knowledge of email exhibit)	187:16–187:18
187:20 – 188:9	FRE 602 (No personal	188:10–188:15

	knowledge of email exhibit)	
189:7 – 192:7	FRE 602 (No personal knowledge of email exhibit)	192:8–192:24
219:23 – 220:7	None	202:4–202:12; 203:10–203:13; 203:17–205:24; 206:11–206:18; 220:8–223:17; 224:10–224:24

American reserves the right to amend its objections and counter-designations to the deposition testimony designated by Skiplagged in this case. American further reserves the right to make any objections and counter-designations to all deposition testimony designated by Skiplagged in any supplementations to its deposition testimony designations. Additionally, American reserves the right to raise objections based on the progress of the case at trial.

American’s objections to the admissibility of materials identified by Skiplagged under FRCP 26(a)(3)(A)(iii)

American makes the following objections to the exhibits designated by Skiplagged [*see* Dkt. No. 207-3 at 2–4]:

DEF’S EX. #	BATES	DESCRIPTION	OBJECTION(S)
1	SKIP0000077	Skiplagged Website: What is Skiplagging or “hidden-city” flying?	None
2	SKIP0000073	Skiplagged Website: Can I check a bag if I book flights found on Skiplagged?	None
3	SKIP0000010-11	Skiplaggd Website: Terms and Conditions	None
4	AA-SKP-00059659-00059676	MI:33 LitPak #230071 Incident ID: 017 EWR-DFW	None
5	AA-SKP-00058806-00058847	MI:33 LitPak #230056 Incident ID: 001 SLC-PDX	None
6	AA-SKP-00059376-00059405	MI:33 LitPak #230064 Incident ID: 009 ONT-RNO	None
7	AA-SKP-00005277-00005279	Email re: QIKFIX-LAST10-357732- 09JUN09:14:04-FOR QIK CHK ON SABRE	None

DEF'S EX. #	BATES	DESCRIPTION	OBJECTION(S)
8	AA-SKP-00005304-05	Email re: FW: ADP Withdrawal Request	None
9	AA-SKP-00010985- 00010988	Email re: Skiplagged.com	None
10	AA-SKP-00062165- 00062171	Email re: Skiplagged	None
11	AA-SKP-00052333- 00052337	Email re: YUL and YTO agents short- checking bags	None
12	AA-SKP-00062732- 00062734	AA Customer Complaint Record	FRE 401 (Relevance); FRE 403 (Outweighed); FRE 801/802 (Hearsay)
13	AA-SKP-00063065- 00063071	AA PNR History	None
14	AA-SKP-00053414- 00053420	AA.com Site Usage	None
15	SKP00111207-00111225	Skyscanner Agreement	None
16	SKP00111101-00111110	Exploretrip, Inc. Agreement	None
17	SKP00111111-00111137	Kiwi Agreement	None
18	SKP00111138-00111144	LBF Travel, Inc. Agreement	None
19	SKP00111145-00111182	The Travel Outlet of Virginia Agreement	None
20	AA-SKP-00001360-362	Email re: Hidden City Party ID	None
21	AA-SKP-00050225	Powerpoint: Hidden City Busters	None
22	AA-SKP-00059827	Email re: Hidden City FYI & Question	None
23	SKIP0000628	Skiplagged 2018 Balance Sheet	None
24	SKIP0000629	Skiplagged 2019 Balance Sheet	None
25	SKIP0000630	Skiplagged 2020 Balance Sheet	None
26	SKIP0000631-632	Skiplagged 2021 Balance Sheet	None
27	SKIP0000633	Skiplagged 2022 Balance Sheet	None
28	SKP00111226	Skiplagged 2023 Balance Sheet	None
29	SKIP0000634	Skiplagged 2018 Profit and Loss Statement	None

DEF'S EX. #	BATES	DESCRIPTION	OBJECTION(S)
30	SKIP0000635	Skiplagged 2019 Profit and Loss Statement	None
31	SKIP0000636	Skiplagged 2020 Profit and Loss Statement	None
32	SKIP0000637	Skiplagged 2021 Profit and Loss Statement	None
33	SKIP0000638	Skiplagged 2022 Profit and Loss Statement	None
34	SKP00111227	Skiplagged 2023 Profit and Loss Statement	None
35	SKP00002672	Email re: I have used your service manyh times now and have e...	FRE 801/802 (Hearsay)
36	SKP00067993-67995	Email re: Skiplagged Monthly Supply Partner Report	None
37	SKP00111228-111231	Skiplagged Post-Flight Symbol Removal	FRE 801/802 (Hearsay)
38	AA-SKP-00089629-31	AA PNR Data with Customer Complaint	FRE 801/802 (Hearsay)
39	AA-SKP-00089364-65	AA PNR Data with Customer Complaint	FRE 801/802 (Hearsay)
40	AA-SKP-00088017-19	AA PNR Data with Customer Complaint	FRE 801/802 (Hearsay)
41	AA-SKP-00086661-62	Email re: Hidden City Itineraries and related website	None
42	AA-SKP-00010786-88	Email re: Skiplagged.com	None
43	AA-SKP-00005301	Email re: Google will no longer offer its flight price data to other sites	None
44	AA-SKP-00005560-61	Email re: Customer: Cierra Zacchaeus	None
45	AA-SKP00005713-18	Email re: Kayak Source	None
46	KIWI.COM_01741-1764	Kiwi Terms & Conditions	None
47	KIWI.COM_01765-1772	Kiwi Affiliate Program terms & conditions	None
48	Holmes Depo. Ex. 2	The MI:33 Legacy	FRE 401 (Relevance); FRE 602 (Foundation); FRE 801/802 (Hearsay)
49	AA-SKP-00059916-59921	Email re: YUL and YTO agents short- checking bags	None
50	AA-SKP-00059822	Email re: Hidden City FYI & Question	None

DEF'S EX. #	BATES	DESCRIPTION	OBJECTION(S)
	Demonstrative PowerPoint		FRE 801/802 (Hearsay)

American reserves the right to amend its objections to the exhibits identified by Skiplagged in this case. American further reserves the right to make any objections to all exhibits designated by Skiplagged in any supplementations to its exhibit list. Additionally, American reserves the right to object to the manner of use of any exhibit at trial, including on grounds of relevance, prejudice, foundation, lack of personal knowledge, hearsay, or any other improper use of the exhibit at trial.

Dated: September 4, 2024

Respectfully submitted,

/s/ Dee J. Kelly, Jr.

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CERTIFICATE OF SERVICE

I certify that on September 4, 2024, I served the foregoing document electronically in accordance with the Federal Rules of Civil Procedure.

/s/ Dee J. Kelly, Jr. _____
Dee J. Kelly, Jr.